

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

PACIFIC CAPITAL BANK, N.A., d/b/a SANTA  
BARBARA BANK & TRUST,

Plaintiff,

v.

GALEN D. KIRKLAND in his official capacity as  
Commissioner of the New York State Division of  
Human Rights,

Defendant.

Civil Action No. 08-CV-8760  
(JGK)(DCF)

**DECLARATION OF ANDREW B. KRATENSTEIN**

ANDREW B. KRATENSTEIN, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a member of the bar of this Court and am associated with the firm of McDermott Will & Emery LLP, attorneys for plaintiff Pacific Capital Bank, N.A., d/b/a Santa Barbara Bank & Trust ("Pacific") in the above-captioned matter. I am familiar with the facts of this case and submit this declaration in further support of Pacific's motion for a preliminary injunction.

2. Attached hereto as Exhibit 1 is a true and complete copy of a March 15, 2007 press release from the New York State Division of Human Rights (the "Division") entitled "New York State Division of Human Rights Announces Investigation Into Potential Discriminatory Practices of H&R Block, Jackson Hewitt, and Liberty Tax Service Through the Targeting of Communities of Color and Military Families for High-Interest Tax Refund Loans."

3. Attached hereto as Exhibit 2 is a true and complete copy of a March 16, 2007 letter from the Division to Jackson Hewitt Inc.

4. Attached hereto as Exhibit 3 is a true and complete copy of an April 9, 2007 subpoena *duces tecum* from the Division to Jackson Hewitt Inc., and Jackson Hewitt Tax Service (NYC) Inc., (collectively, "Jackson Hewitt").

5. Attached hereto as Exhibit 4 is a true and complete copy of a January 17, 2008 "Verified Complaint" issued by the Division against Jackson Hewitt.

6. Attached hereto as Exhibit 5 is a true and complete copy of a January 17, 2008 "Verified Complaint" issued by the Division against JTH Tax, Inc. d/b/a Liberty Tax Service.

7. Attached hereto as Exhibit 6 is a true and complete copy of a January 17, 2008 press release from the Division entitled "New York State Division of Human Rights Files Nation's First Civil Rights Action Against Tax Preparation Companies For Predatory Lending Practices Targeted to Communities of Color and Military Families."

8. Attached hereto as Exhibit 7 is a true and complete copy of a January 18, 2008 *New York Times* article entitled "State Makes Bid to End Costly Tax-Refund Loans" by Nicholas Confessore.

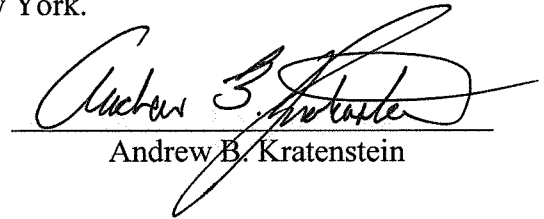
9. Attached hereto as Exhibit 8 is a true and complete copy of a February 3, 2008 *New York Daily News* article entitled "Spear N.Y.'s Tax-Loan Sharks" by Errol Louis.

10. Attached hereto as Exhibit 9 is a true and complete copy of a March 19, 2008 press release from the Division entitled "State Supreme Court Affirms the Division of Human Right's [sic] Investigation of H&R Block's Alleged Discriminatory Practices in Connection with High-Interest Loan Products."

11. Attached hereto as Exhibit 10 is a true and complete copy of a June 30, 2008 document entitled "Determination After Investigation" issued by the Division.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 15th day of October 2008 in New York, New York.



Andrew B. Kratenstein